

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 1301 - SB 1893

April 2, 2009

SUMMARY OF BILL: Creates a presumption that a child residing with a parent, relative, guardian, or caretaker who uses or has used heroin, cocaine, or methamphetamines within the last 72-hours is a form of abuse and the child is in immediate danger. Requires the Department of Children's Services to remove the child from the home.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$9,338,800
\$565,500/Incarceration*

Increase Federal Expenditures - \$7,053,100

Assumptions:

- According to the Department of Children's Services (DCS), there were 2,954 investigations of children being exposed to drugs. Of those investigations, 568 children were taken into state custody. The Department does not keep data on the type of drug exposure that was investigated.
- According to a report published in July 2007 by the Office of National Drug Control Policy, there were 35,826 drug offenses in Tennessee in 2006. Of these offenses, 11,387, or 31.78 percent, were for cocaine, methamphetamine, and heroin.
- Applying that percentage to the investigations that did not result in the child coming into custody, it is assumed that 758 $[(2,954 - 568) \times 31.78\%]$ additional children will come into state custody.
- The Department estimates that each child will spend an average of 180 days at a rate of \$108 per day resulting in an increase in expenditures of \$14,735,520 $(758 \times 180 \times 108)$.
- Of the total increase of \$14,735,520, seven percent (\$1,031,486) will be Title IV-E Federal funds; 49 percent (\$7,220,405) will be through TennCare; and \$6,483,629 in state funds.

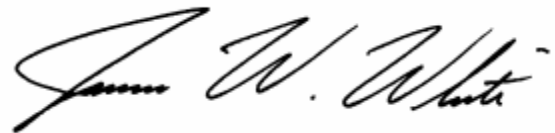
- Of the \$7,220,405 in TennCare funds, \$1,867,341 is state funds at a 25.862 percent match rate and \$5,353,064 is federal funds at a 74.138 percent match rate.
- DCS estimates 24 additional case managers resulting in an increase in expenditures of \$1,370,304 which includes salaries (\$825,600), benefits (\$280,704), and communications, networking, travel and supplies (\$264,000).
- It is estimated that DCS will need 5 additional team leaders resulting in an increase in expenditures of \$286,150 which includes salaries (\$172,500), benefits (\$58,650), and communications, networking, travel and supplies (\$55,000).
- Of the total increase of \$1,656,454, seven percent (\$115,952) will be Title IV-E Federal funds; 45 percent (\$745,404) will be through TennCare; and \$795,098 in state funds.
- Of the \$745,404 in TennCare expenditures, \$192,776 is state funds at a 25.862 percent match rate and \$552,628 is federal funds at a 74.138 percent match rate.
- The total increase in expenditures for additional children in custody is estimated at \$9,338,844 in state funds and \$7,053,130 in federal funds.
- Under current law, it is a Class A misdemeanor for a person knowingly to abuse or neglect a child who is under the age of 18. If the abused or neglected child is six years old or less, the penalty is a Class E felony. Currently, it is a Class A misdemeanor for a person knowingly to treat a child under the age of 18 in a manner as to inflict injury. If the abused child is six years old or less, the penalty is a Class D felony.
- According to the Department of Correction (DOC), there has been an average of 37 admissions for child abuse and neglect and three admissions for attempted child abuse and neglect when the victim is six years old or less in each of the past 10 years.
- DOC estimates a 25 percent (9.25) increase in the number of Class D felony convictions as a result of this bill.
- According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. According to the Department, the average post-conviction time served for a Class E felony is 1.63 years and 2.43 years for a Class D felony. The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days). The cost per offender at 2.43 years is \$52,995.96 (\$59.80 x 886.22 days).
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in one additional offender. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 10 offenders. The additional operating cost for 10 offenders is \$529,959.60 (\$52,995.96 x 10).

- DOC estimates a 25 percent (0.75) increase in Class E offenses for attempted child abuse or neglect convictions. The additional operating cost for one offender is \$35,548.11.
- A small increase in cases in the court system, which will result in additional state and local government expenditures for processing the cases and additional state and local government revenue from fees, taxes and costs collected. These expenditures and revenue are estimated to be not significant.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

/kml